

PATENT  
Attorney Docket No. 362377  
Express Mail No. EL331137228US

wherein the amount of said first salt is one part by weight and the amount of said second salt is between 0.001 and 1,000 parts by weight.

~~Please cancel claims 11-18 without prejudice and without admitting anticipation or obviousness.~~

REMARKS

In addition to the following remarks, an interview was conducted with Examiner Robinson on June 22, 1999. The claims and rejections were discussed, and it was agreed that claims 7 and 9 would be allowed by the Examiner if a terminal disclaimer was filed and if claim 9 was amended as enclosed herewith. Additionally, it was agreed to cancel claims 11-18. As such, in view of the interview with the Examiner, it is concluded that claims 7 and 9 are now in condition for allowance, and such allowance is respectfully requested.

In the Office Action dated March 19, 1999, claim 7 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Additionally, claims 11-18 were rejected under 35 U.S.C. § 112, first paragraph, because the specification was enabling for specific inorganic phosphonate and phosphate compounds, but does not, according to the Examiner, reasonably provide enablement for all salts of the phosphonate and phosphate compounds.

Claims 7, 9, and 11-18, have been provisionally rejected under the judicially created doctrine of "obviousness - type double patenting" as being unpatentable over claims 7, 9, 10, 12, 13, 15, 16,

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and 18 of co-pending Application No. 08/943,002. Furthermore, claim 9 has been provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claim 9 of co-pending Application No. 08/943,002. Finally, claims 11-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Barlet, Ducret, et al., Horriere, et al., Lovett, and Vatanovetz, et al. In response, Applicant has carefully considered the Examiner's rejections and comments, and has amended the claims and filed a terminal disclaimer accordingly. It is now believed, in view of the amendments and the following remarks, that the claims of the present application are in condition for allowance. As such, reconsideration and allowance of the claims in view of the present amendments and remarks is respectfully requested.

As mentioned, claim 7 was rejected under 35 U.S.C. §112, second paragraph, for indefiniteness. In response, the spelling of alkynl in the specification has been corrected to overcome such rejection. As a result of the amendment to the specification, claim 7 should now overcome the rejection under 35 U.S.C. §112, second paragraph.

Claims 11-18 were rejected under 35 U.S.C. § 112, first paragraph, because it is asserted that the specification is not enabling for all salts of phosphonate and phosphate compounds. These claims have been canceled, thus such rejection is rendered moot.

The Examiner has provisionally rejected claims 7, 9, and 11-18 under 35 U.S.C. § 101. A Terminal Disclaimer is submitted herewith pursuant to the provisions of 37 CFR 3.73(b) which

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overcomes the Examiner's rejection. As such, claims 7 and 9 should be in condition for allowance.

Claim 9 has been provisionally rejected for as claiming the same invention as that of claim 9 of co-pending Application No. 08/943,002. In response, present claim 9 has been amended to specifically claim various potassium phosphate and potassium phosphonate salts for use in combination as a fertilizer. This claim is distinctly different than the claim of the cited 08/943,002 application. The exact same composition is not claimed. It is believed that as a result of such amendment the Statutory 101 rejection is no longer applicable and that such claim is now in condition for allowance.

Claims 11-18 were rejected under 35 U.S.C. § 103(a) as being obvious in view of the above disclosed references. Again, these claims have been canceled so that such rejection is no longer applicable.

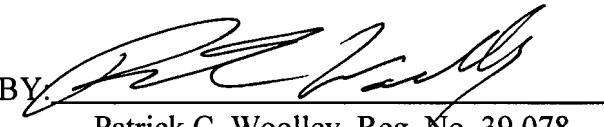
In view of the above, it is asserted that the remaining claims, as amended, are in condition for allowance. It is respectfully requested that claims 7 and 9 be allowed.

If the Examiner has any suggested changes, which would place the present application in condition for allowance, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

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